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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,836	01/20/2004	Jeffrey A. Myler	SAM325	8018
34356	7590	06/10/2004	EXAMINER	
ASHKAN NAJAFI, P.A. 113 LAMPLIGHTER LANE PONTE VERDA BEACH, FL 32082			NGUYEN, THONG Q	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/759,836	Applicant(s) MYLER, JEFFREY A. 	
	Examiner Thong Q Nguyen	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings contain three sheets of figures 1-5 were received on 1/20/04.

These drawings are objected by the Examiner for the following reason(s).

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In particular, the reference "32" as shown in figure 3 and the reference "32" as shown in figure 5 are not mentioned in the specification. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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### ***Claim Objections***

4. Claims 1-12 are objected to because of the following informalities. Appropriate correction is required.

In each claim, the term "TV" should be changed to -television-.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 12/10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 12/10 is rejected under 35 USC 112, first paragraph because the specification does not teach an attaching means made by both Velcro material and a clip member having an arcuate female portion as claimed. Applicant should note that the use of a clip member having an arcuate female portion is an alternative attaching means for the attaching means having Velcro material.

### ***Double Patenting***

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

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A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Claim 6 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2/1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

9. Claim 10 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 8/6. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-2, 4, 6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fourny (U.S. Patent No. 4,633,322) in view of the Germany reference No. 26 48 549.

Fourny discloses a filter apparatus attached to a television for the purpose of reducing harmful or unwanted light to an observer. The apparatus as described in column 4 and shown in figures 5-7 comprises a housing supporting a roller wherein the housing is removably attached to the top side of a television. The roller supports a filter which is able to pull over the screen of the television wherein one end of the screen comprises attaching means in the form of Velcro material for removably attaching to its complementary elements to prevent/hold the filter from dangling movements. The use of fastening for the purpose of removably securing the filter apparatus to the television is also provided by Fourny as he discloses the use of plural rapid self-attaching coupling means (15). While Fourny does not explicitly state that the housing supports two shafts; however, such a feature is also to read from the filter apparatus as shown in figures 5-6. It is not inherent then the use of a housing having two shafts for supporting a roller is suggested to one skilled in the art as can be seen in the filter apparatus attached to a television provided by the Germany reference '549. See pages 8-12 and figures 1 and 3, for example. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the filter apparatus attached to a television as provided by Fourny by utilizing a housing having two shafts for supporting a roller having pullover screen as suggested by the Germany reference '549 for the purpose of providing a means for supporting a roller which is more reliable in operation.

12. Claims 3, 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fourny in view of the Germany reference No. 26 48 549 as applied to claim 1 above, and further in view of Stulbach (U.S. Patent No. 3,183,033).

The combined product provided by Fourny and the Germany reference '549 does not explicitly disclose that the fastening means for attaching the filter apparatus to the television is in the form of suction cups. However, such use of suction cups for removably attaching the filter apparatus to the television as claimed is merely that of a mechanical preferred embodiment and no criticality has been disclosed. The support for that conclusion is found in the present specification in which applicant has suggested a number of alternative elements for attaching the filter apparatus to the television. Further, the use of suction cups for attaching a filter apparatus to a support in place of other mechanical element is indeed suggested to one skilled in the art as can be seen in the system provided by Stulbach. In particular, Stulbach discloses a filter apparatus for a vehicle and teaches embodiments of mechanism for attaching the filter apparatus to a support. One of the embodiments comprises a plural suction cups connected to the filter apparatus for removably attaching the filter apparatus to a windshield. See column 4 and fig. 13. Thus, it would have been obvious to one skilled in the art at the time the invention was made to use suitable mechanical elements including Velcro materials or suction cups as suggested by Stulbach for removably attaching the filter apparatus to a television for satisfying a particular design/application.

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13. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fourny in view of the Germany reference 26 48 549 as applied to claim 1 above, and further in view of Lehr (U.S. Patent No. 5,494,328).

The combined product provided by Fourny and the Germany reference '549 does not explicitly disclose that the attaching means for attaching the filter apparatus to the television is in the form of clip having an arcuate female portion. However, such use of a clip having an arcuate female portion for removably attaching the filter apparatus to the television as claimed is merely that of a mechanical preferred embodiment and no criticality has been disclosed. The support for that conclusion is found in the present specification in which applicant has suggested a number of alternative elements for attaching the filter apparatus to the television. It is also noted that the use of attaching means in the form of Velcro material is indeed claimed as can be seen in present claims 4, 8 and 10. Further, the use of a removably mechanism in the form of a clip having an arcuate female portion for removably holding a rod for attaching a filter apparatus to a support in place of other mechanical element is indeed suggested to one skilled in the art as can be seen in the system provided by Lehr. In particular, ~~Stulbach~~<sup>Lehr</sup> discloses a filter apparatus for a vehicle and teaches embodiments of mechanism for attaching the filter apparatus to a support. One of the embodiments comprises a clip having an arcuate female portion connected to the filter apparatus for removably attaching the filter apparatus to a windshield. See column 2 and figs. 3 and 5, for example. Thus, it would have been obvious to one skilled in the art at

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the time the invention was made to use suitable mechanical elements including a clip having an arcuate female portion as suggested by Lehr for removably attaching the filter apparatus to a television for satisfying a particular design/application.

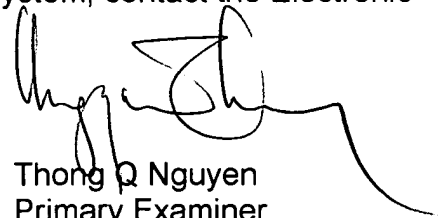
### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q Nguyen  
Primary Examiner  
Art Unit 2872